



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग चार-क

वर्ष ६, अंक ३६(२)]

सोमवार, जुलै २८, २०१४/श्रावण ६, शके १९३६

[पृष्ठ २, किंमत : रुपये ९.००

असाधारण क्रमांक ६९

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकार्यांनी तयार केलेले

(भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर)

वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क),  
जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील  
इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

सामान्य प्रशासन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरू चौक, मंत्रालय, मुंबई ४०० ०३२,

दिनांक २८ जुलै २०१४

क्र.बीआयई-२०१४/प्र.क्र. १०९६/१४/३३

### BEFORE THE GOVERNOR OF MAHARASHTRA

In Re: Disqualification of Shri Suresh Ganpati Halvankar, Member of Legislative Assembly of Maharashtra, under article 191(1)(e) of the Constitution of India and sub-section (3) of section 8 of the Representation of the People Act, 1951.

### Order

No. RB/ADM/2014/1503 dated 24th July 2014

As directed by the Speaker, Maharashtra Legislative Assembly, the Maharashtra Legislature Secretariat has brought to my notice the fact of conviction of Shri Suresh Ganpati Halvankar, a sitting Member of the State Legislative Assembly, by the Special Judge of the Special Court, Ichalkaranji, Taluka Hatkangale, District Kolhapur, in Special Case No. 1 of 2008. The State of Maharashtra through Maharashtra State Electricity Distribution Company Police Station, Pune, District Pune *versus* Mahadeo Ganpati Halvankar and Anr.

2. The said sitting M.L.A. has been convicted, by the judgement and order dated the 3rd May 2014 under section 135 (1) (b) (c) and (d) of the Electricity Act, 2003 and sentenced to suffer rigorous imprisonment for three years and has also been convicted under section 138(d) of the Electricity Act, 2003 and sentenced to suffer rigorous imprisonment for three years and to pay a fine of rupees ten thousand and in default of payment of fine to suffer rigorous imprisonment for the period of six months.

(१)

Shri Halvankar has preferred an Appeal against the said conviction, being Criminal Appeal No. 455 of 2014, and has also moved an application, being Criminal Application No. 723 of 2014, before the High Court of Judicature at Bombay. The High Court of Judicature at Bombay, *vide* its order, dated the 11th June 2014, admitted the appeal and has, pending the appeal suspended the execution of the sentence.

3. Article 191 (1) (e) of the Constitution of India provides that a person shall be disqualified for being chosen as, and for being a Member of the Legislative Assembly of a State, if he is so disqualified by or under any law made by the Parliament.

4. Thus, it appeared that, Shri Halvankar on account of his conviction became disqualified for being a Member of the State Legislative Assembly from the date of his conviction.

5. As required by clause (2) of article 192 of the Constitution, the question of the said alleged disqualification was referred to the Election Commission of India for its opinion.

6. The Commission, after careful consideration of the letter from the Principal Secretary, Maharashtra Legislature Secretariat, the judgement of the Court of the Special Judge, Ichalkaranji at Ichalkaranji in Special Case No. 1 of 2008 and the opinion of the Advocate General of Maharashtra, opined that Shri Halvankar, on account of his conviction, has become disqualified for being a Member of the State Legislative Assembly, from the date of his conviction and his seat should have been declared vacant by the Maharashtra Legislature Secretariat under article 190 (3) (a) from the date of his conviction. The Commission has also referred to the judgment of the Supreme Court of India in the case of B. R. Kapoor *v/s* State of Tamilnadu and Others (AIR 2001 SC 3435). In view of the settled position of law laid down therein that, conviction and sentence are two separate aspects, the Commission has further opined that, the stay on the execution of sentence of Shri Halvankar, alone does not remove the disqualification under sub-section (3) of section 8 of the Representation of the People Act, 1951.

7. In accordance with the said opinion, I pass the following order :—

### Order

Shri Suresh Ganpati Halvankar, sitting Member of the Maharashtra Legislative Assembly is hereby declared to be disqualified under article 191 (1)(e) of the Constitution of India, from the date of his conviction by the Judgement and order, dated the 3rd May 2014, passed by the Special Judge of the Special Court, Ichalkaranji at Ichalkaranji, in Special Case No. 1 of 2008.

K. SANKARANARAYANAN,

Governor of Maharashtra.

Dated the 24th July 2014.

By order and in the Name of the Governor of Maharashtra,

NEELES R. GATNE,

Deputy Secretary-cum-Joint Chief Electoral Officer  
Maharashtra State.

क्रमांक बीआयई-२०१४/प्र. क्र. १०९६/१४/३३,

**सामान्य प्रशासन विभाग**

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,

मंत्रालय, मुंबई ४०० ०३२

दिनांक २८ जुलै २०१४

प्रत माहिती व योग्य कार्यवाहीसाठी अग्रेषित :-

- (१) सचिव, राज्यपाल कार्यालय, महाराष्ट्र राज्य.
- (२) प्रधान सचिव, महाराष्ट्र विधानमंडळ सचिवालय.
- (३) सचिव, भारत निवडणूक आयोग, नवी दिल्ली ११०००१.
- (४) निवड नस्ती.

**नीलेश र. गटणे,**

उप सचिव तथा सह मुख्य निवडणूक अधिकारी

महाराष्ट्र राज्य.